IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

In re the Application of

Kenneth J. Susnjara

Serial No.: 09/872,335

Filed: June 2, 2001

For: METHOD FOR MARKETING AND
ADVERTISING COMPONENT PRODUCTS
USED IN THE PRODUCTION OF
COMPOSITE PRODUCTS

SUBSTITUTE APPEAL BRIEF

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I REAL PARTY IN INTEREST

The real party in interest is the Thermwood Corporation, an Indiana corporation having its principal place of business in the Town of Dale and the State of Indiana.

II RELATED APPEALS AND INTERFERENCES

There are no related appeals known to Appellant, Appellant's legal representative or the assignee, which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

III STATUS OF CLAIMS

Claims 1 through 66 have been cancelled. Claims 67 through 70 stand rejected. The rejection of claims 1 through 66 is appealed herein.

IV STATUS OF AMENDMENTS

No amendment has been filed subsequent to the final rejection of the claims appealed herein.

V SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 67 recites a method of manufacturing a composite product, comprising transmitting from a first party to a remote second party having access to a computer and a CNC machine, software usable upon inputting into the computer design the composite product, generate a bill of materials for the composite product in accordance with the design and generate a program of instructions for the operation of the CNC machine to machine certain components of the composite product (Figure 1; page 4, lines 13 and 14; page 6, lines 8 and 9; page 7, lines 6 through 8; and page 8, lines 11 through 18) inputting the software into the computer by the

second party (page 7, lines 6 through 13); operating the computer utilizing the software by the second party to generate a selected design of the composite product, a bill of materials for the designed composite product and a program for instructing the CNC machine to machine certain components of the designed composite product (page 8, lines 11 through 18); inputting the instructional program into the CNC machine; operating the CNC machine in accordance with the instructional program to machine the certain components of the designed composite product (page 8, lines 11 through 13); acquiring other of the components of the designed composite product from a selected source (Figure 1; page 7, lines 11 through 20) and assembling the machined and acquired components to form the designed composite product. Claim 68 is dependent on claim 67 and further provides for the selected source comprising the first party (Figure 1; page 7, lines 11 through 13). Claim 69 is dependent on claim 68 and further recites the software transmitted by the first party to the second party including means for ordering the other components of the designed composite product online (Figure 1; page 7, lines 13 through 20). Claim 70 is dependent on claim 69 and further recites the software transmitted by the first party to the second party including advertisements of the other components of the designed composite product (page 6, lines 4 through 7).

VI GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 67 through 70 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/093538 to Carlin, filed February 20, 2002, which is a continuation of U.S. Patent Application, Serial No. 09/643,507, filed August 22, 2000 which is incorporated in the aforementioned Carlin continuation application by reference, in view of official notice.

With respect to claims 67 and 68, it is asserted that Carlin teaches transmitting from a first party to remote second party having access to a computer and software usable upon inputting into the computer to design a composite product, generate a bill f materials for the composite product in accordance with such design; inputting such software into the computer by the second party; operating the computer utilizing such software by the second party to generate a selected design of the composite product, a bill of material for the designed composite product and acquiring other of the components of the designed composite product from a selected source; and assembling such acquired components to form the designed composite product. Next, official notice is taken that CNC operates machine tools in the same way a skilled operator would manually, but is done automatically through stored program data. It then is asserted that is would have been obvious to use a CNC machine and program for the instructions for the operation of the CNC machine and inputting the instructional program in order to overcome the possibilities of human error because the machine's functions are controlled by a fixed program and are not dependent on the operator's skills.

In addition, it is asserted that as a matter of official notice, it would be obvious to purchase products online and further to advertise online.

VII ARGUMENT

The key aspect of the claimed invention is the provision for a first party furnishing a second party with certain software which the second party can then run on his or her own computer to design a particular product, generate a bill of materials for such product, devise an instructional program for producing at least some of the components of such design product on a CNC machine, and run such program on such machine to produce at least some of the

components of the product. The method further provides for acquiring other of such components of the designed composite product from a selected source which could include the first party.

An example of the use of such method would be perhaps a manufacturer of CNC routers used to cut and form board pieces for forming various products such as cabinets, furniture and the like, developing a software package providing for the design of such a product, the generation of a bill of materials for such product such as a set of kitchen cabinets, the generation of an instructional program for a CNC router for producing various wooden components of such cabinets and furnishing such software package to a cabinet maker. The cabinet maker would then run such package on his or her own computer to design the product, perhaps in conjunction with a prospective purchaser of the cabinets, and then generate a bill of materials for the cabinets and also an instructional program to be run on his or her CNC machine. Upon receipt of a purchase order from the customer, the cabinet maker would purchase wood hardware for the cabinets to be fabricated. The wood and hardware can be purchased anywhere but the cabinet maker would have the further option to use the software to purchase certain components such as pulls, knobs, drawer slides and the like from the manufacturer. The manufacturer could either furnish such components itself or obtain them from vendors, possibly through the use of a server. Upon availability of the wood components, the instructional program may be inputted into the CNC router of the user, the wood components may be loaded onto the machine and the machine may be operated to run the program to cut and form the wooden components. Such machine components and the purchased hardware can then be used by the cabinet maker to fabricate the computer designed cabinets.

The Carlin reference principally relied upon in the rejection of Applicant's claims clearly fails to disclose or teach any such method, and no official notice teaches any modification of Carlin to arrive at the claimed method. A careful review and consideration of Carlin reveals

nothing more than the storage of images of certain components such as household furniture and accessories on a remote server, the accessibility of such images by a user on his or her computer, the capability to arrange such furniture and accessories in a room space as in conventional interior decorating and the capability of ordering selected furniture and accessories online. It does not provide for the type of software package as provided for in the claimed method, i.e., one providing for the design of a composite product, the generation of a bill of materials of such a composite product and the generation of program instructions for a CNC machine for producing some of the components of the composite product, the furnishing of such software package by a first party to a second user party, the manner of use of the software package by the user party nor the use of the user computer output to machine components required to fabricate the designed product. There is a similarity between the two methods in terms of the option of the user party to purchase component parts from the first party, however, such provision is only an additional, optional component of the method.

That the Carlin method requires the storage of images on a remote server and interactive communication across a digital communications network between a user and the remote server is evidenced by the fact that Carlin requires that the graphics rendering software be resident only at the server computer system because of he necessity of the high resolution requirement of the images, particularly in revealing design patterns in draperies, furniture fabrics and the like, and the requirement of the maintenance of the database. In this regard, attention is invited to paragraphs 0057 and 0058 of Carlin.

Carlin clearly fails as a basic reference in either disclosing or teaching a) the transmission of a software package from a first party to a user second party which can be run on the computer of the user second party, b) such software package being functional to design a composite product such as a set of kitchen cabinets, generate a bill of materials for such a composite

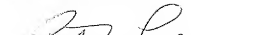
product, such as required pieces of wood and hardware, and generate program instructions for a CNC machine to machine some of such components, such as a set of wood pieces required to build a set of cabinets, c) the use of such software package by the user second party on such party's computer to design such product and generate such bill of materials and CNC program instructions, d) the use of such program instructions to machine some of the components of the final product on a CNC machine, e) the acquisition of other components of the final product from the first party online or elsewhere and f) assembling such components to produce the end product.

While official notice may be taken that CNC machines may be programmed to perform tasks that otherwise can be performed manually, such notice cannot be construed to teach a modification of the Carlin method to provide for the deficiencies thereof as noted above to arrive at the claimed invention.

VIII CONCLUSION

It respectfully submitted that because the Carlin Patent, principally relied upon as disclosing a substantial portion of the claimed method, fails to disclose such substantial portion, and official notice fails to teach any modification of the method disclosed in Carlin to arrive at the claimed invention, the rejection of Applicant's claims should be reversed.

Respectfully submitted,



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APPENDICES

The following Appendices are attached to and made a part of this brief:

Appendix A	Claims on Appeal
Appendix B	Evidence (N/A)
Appendix C	Related Proceedings (N/A)

APPENDIX A:

Claims on Appeal

APPENDIX A

CLAIMS ON APPEAL

67. A method of manufacturing a composite product, comprising:

transmitting from a first party to a remote second party having access to a computer and a CNC machine, software useable upon inputting into said computer to design said composite product, generate a bill of materials for said composite product in accordance with said design and generate a program of instructions for the operation of said CNC machine to machine certain components of said composite product;

inputting said software into said computer by said second party;

operating said computer utilizing said software by said second party to generate a selected design of said composite product, a bill of materials for said designed composite product and a program for instructing said CNC machine to machine certain components of said designed composite product;

inputting said instructional program into said CNC machine;

operating said CNC machine in accordance with said instructional program to machine said certain components of said designed composite product;

acquiring other of said components of said designed composite product from a selected source; and

assembling said machined and acquired components to form said designed composite product.

68. The method according to claim 67, wherein said selected source comprises said first party.

69. The method according to claim 68, wherein said software transmitted by said first party to said second party includes means for ordering said other components of said designed composite product, online.

70. The method according to claim 69, wherein said software transmitted by said first party to said second party includes advertisements of said other components of said designed composite product.

APPENDIX B:

Evidence Appendix under 37 CFR § 41.37(c)(1)(ix)

N/A

APPENDIX C:

Related Proceedings Appendix under 37 CFR § 41.37(c)(1)(x)

N/A